REGISTERED No. M. 7163.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. VII] Trivandrum, Thursday, 20th December 1962 / 29th Agrahayana 1884 [No. 168

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 13227-b.2|62|Law.

Dated, Trivandrum, 20th December 1962.

The following Act of Parliament, published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 12th December, 1962, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 12th December, 1962.

By order of the Governor,

P. UNNIKRISHNA KURUP,

Additional Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1962.

THE DEFENCE OF INDIA ACT, 1962

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THE DEFENCE OF INDIA ACT, 1962

(Act 51 of 1962)

An

ACT

to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith.

WHEREAS the President has declared by Proclamation under clause (1) of article 352 of the Constitution that a grave emergency exists whereby the security of India is threatened by external aggression;

AND WHEREAS it is necessary to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith;

BE it, therefore, enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent, application, duration and savings.*—(1) This Act may be called the Defence of India Act, 1962.

(2) It extends to the whole of India and it applies also—

(a) to citizens of India outside India;

(b) to persons in the service of the Government, wherever they may be;

(c) in respect of the regulation and discipline of the naval, military and air forces or any other armed forces of the Union, to members of, and persons attached to, employed with, or following, those forces, wherever they may be;

(d) to, and to persons on, ships and aircraft registered in India, wherever they may be.

(3) It shall remain in force during the period of operation of the Proclamation of Emergency issued on the 26th October, 1962, and for a period of six months thereafter but its expiry under the operation of this sub-section shall not affect—

(a) the previous operation of, or anything duly done or suffered under, this Act or any rule made thereunder or any order made under any such rule, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under this Act or any rule made thereunder or any order made under any such rule, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence under this Act or any contravention of any rule made under this Act or of any order made under any such rule, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not expired.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "civil defence" includes any measures not amounting to actual combat, for affording defence against any form of hostile attack by a foreign power or for depriving any form of hostile attack by a foreign power of its effect either wholly or in part whether such measures are taken before, during or after the time of the attack;

(b) "Civil Defence Services" mean the services formed wholly or mainly to meet the needs of civil defence;

(c) "enemy" means—

(i) any person or country committing external aggression against India;

(ii) any person belonging to a country committing such aggression;

(iii) such other country as may be declared by the Central Government to be assisting the country committing such aggression;

(iv) any person belonging to such other country;

(d) "enemy territory" means—

(i) any area which is under the sovereignty of a country referred to in sub-clause (i), or a country referred to in sub-clause (iii), of clause (c) of this section;

(ii) any area which the Central Government may, by notification in the Official Gazette, specify to be enemy territory for the purposes of this Act or any rule made thereunder;

(e) "military operations" mean the operations of the Armed Forces of the Union;

(f) "occupied territory" means any territory of India which is for the time being in the occupation of a country referred to in sub-clause (i) or a country referred to in sub-clause (iii), of clause (c) of this section;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Proclamation of Emergency" means the Proclamation issued under clause (1) of article 352 of the Constitution on the 26th October, 1962;

(i) "State Government" in relation to a Union territory means the administrator thereof.

CHAPTER II

EMERGENCY POWERS

3. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make such rules as appear to it necessary or expedient for securing the defence of India and civil defence, the public safety, the maintenance of public order or the efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, and may empower any authority to make orders providing for, all or any of the following matters, namely: —

(1) ensuring the safety and welfare of the Armed Forces of the Union, ships and aircrafts, and preventing the prosecution of any work likely to prejudice the operations of the Armed Forces of the Union;

(2) prohibiting anything likely to prejudice the training, discipline or health of the Armed Forces of the Union;

(3) preventing any attempt to tamper with the loyalty of persons in, or to dissuade (otherwise than with advice given in good faith to the person dissuaded for his benefit or that of any member of his family or any of his dependents) persons from entering, the service of the Government;

(4) preventing or prohibiting anything likely to assist the enemy or to prejudice the successful conduct of military operations or civil defence including—

(a) communications with the enemy or agents of the enemy;

(b) acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy;

(c) contribution to, participation or assistance in, the floating of loans raised by or on behalf of the enemy;

(d) advance of money to, or contracts or commercial dealings with the enemy, enemy subjects or persons residing, carrying on business, or being, in enemy territory or occupied territory; and

(e) acts, publications or communications prejudicial to civil defence or military operations;

(5) preventing the spreading without lawful authority or excuse of reports or the prosecution of any purpose, likely to cause disaffection or alarm, or to prejudice India's relations with foreign powers or to prejudice maintenance of peaceful conditions in any area or part of India, or to promote feelings of ill-will, enmity or hatred between different classes of the people of India;

(6) requiring the publication of news and information;

(7) (a) prohibiting the printing or publishing of any newspaper, news-sheet, book or other document containing matters prejudicial to the defence of India and civil defence, the public safety, the maintenance of public order, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community;

(b) demanding security from any press used for the purpose of printing or publishing, and forfeiting the copies of, any newspaper, news-sheet, book or other document containing any of the matters referred to in sub-clause (a);

(c) forfeiture of such security and the circumstances in which and the authority by whom such forfeiture may be ordered;

(d) closing down any press or any premises used for the purpose of printing or publishing any newspaper, news-sheet, book or other document containing any of the matters referred to in sub-clause (a) in spite of the forfeiture of such security;

(8) regulating the conduct of persons in respect of areas the control of which is considered necessary or expedient, and the removal of persons from such areas;

(9) requiring any person or class of persons to comply with any scheme of defence or civil defence;

(10) ensuring the safety of—

(a) ports, dockyards, lighthouses, light-ships and aerodromes;

(b) railways, tramways, roads, bridges, canals and all other means of transport by land or water;

(c) telegraphs, post offices, signalling apparatus and all other means of communication;

(d) sources and systems of water-supply, works for the supply of water, gas or electricity, and all other works for public purposes;

(e) vessels, aircraft, transport vehicles as defined in the Motor Vehicles Act, 1939 (4 of 1939), and rolling stocks of railways and tramways;

(f) warehouses and all other places used or intended to be used for storage purposes;

(g) mines, oil-fields, factories or industrial or commercial undertakings generally, or any mine, oil-field, factory or industrial or commercial undertaking in particular;

(h) laboratories and institutions where scientific or technological research or training is conducted or imparted;

(i) all works and structures being part of, or connected with, anything earlier mentioned in this clause; and

(j) any other place or thing used or intended to be used for the purposes of Government or a local authority or a semi-Government or autonomous organisation, the protection of which is considered necessary or expedient for securing the defence of India and civil defence, the public safety, the public order, or the efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community;

(11) the demolition, destruction or rendering useless in case of necessity of any building or other premises or any other property;

(12) prohibiting or regulating traffic, and the use of vessels, buoys, lights and signals, in ports and territorial, tidal and inland waters;

(13) the control of lights and sounds;

(14) the control of persons entering, travelling in or departing from, India;

(15) notwithstanding anything in any other law for the time being in force,—

(i) the apprehension and detention in custody of any person whom the authoritiy empowered by the rules to apprehend or detain (the authority empowered to detain not being lower in rank than that of a District Magistrate) suspects, on grounds appearing to that authority to be reasonable, of being of hostile origin or of having acted, acting, being about to act or being likely to act in a manner prejudicial to the defence of India and civil defence, the security of the State, the public safety or interest, the maintenance of public order, India's relations with foreign States, the maintenance of peaceful conditions in any part or area of India or the efficient conduct of military operations, or with respect to whom that authority is satisfied that his apprehension and detention are necessary for the purpose of preventing him from acting in any such prejudicial manner,

(ii) the prohibition of such person from entering or residing or remaining in any area,

(iii) the compelling of such person to reside and remain in any area, or to do or abstain from doing anything, and

(iv) the review of orders of detention passed in pursuance of any rule under sub-clause (i);

(16) restricting and regulating the charter of foreign vessels and aircraft;

(17) regulating the structure and equipment of vessels for the purpose of ensuring the safety thereof and of persons therein;

(18) regulating work in dockyards, shipyards and aerodromes in respect of the construction and repairs of vessels and aircraft;

(19) prohibiting or regulating the sailings of vessels from ports, traffic at aerodromes and the movement of aircraft, and traffic on railways, tramways and roads, and reserving and requiring to be adapted, for the use of the Government, all or any accommodation in vessels, aircraft, railways, tramways or road vehicles for the carriage of persons, animals or goods;

(20) the impressment of vessels, aircraft, vehicles, and animals for transport;

(21) prohibiting or regulating the use of postal, telegraphic or telephonic services, including the taking possession of such services, and the delaying, seizing, intercepting or interrupting of postal articles or telegraphic or telephonic messages;

(22) regulating the delivery otherwise than by postal or telegraphic service of postal articles and telegrams;

(23) the control of trade or industry for the purpose of regulating or increasing the supply of, and the obtaining of information with regard to articles or things of any description whatsoever which may be used in connection with the conduct of military operations or civil defence or for maintaining supplies and services essential to the life of the community;

(24) the control of generation, supply, distribution, use or consumption of electrical energy;

(25) the taking over by the Central Government or the State Government, for a limited period, of the management of any property (including any undertaking) relating to supplies and services essential to the life of the community;

(26) the control of agriculture (including the cultivation of agricultural land and crops to be raised therein) for the purpose of increasing the production and supply of foodgrains and other essential agricultural products;

(27) the provision, storage and maintenance of commodities and things required for the conduct of military operations or for the defence of India and civil defence;

(28) the requisition of services of persons for maintaining supplies and services essential to the life of the community;

(29) the provision, construction, maintenance or alteration of buildings, premises or other structures or excavations required for the conduct of military operations or the defence of India and civil defence;

(30) the protection of property by the performance of such fire prevention and other duties as may be allotted to any person;

(31) the securing of any building, premises or other structures from being readily recognisable in the event of a hostile attack by a foreign power;

(32) prohibiting, restricting or otherwise regulating the bringing into, or taking out of, India of goods or articles of any description (including coin, bullion, bank notes, currency notes, securities and foreign exchange), and bringing into any part or place in India of any such goods or articles as aforesaid intended to be taken out of India without being removed from the ship, aircraft or other conveyance in which they are being carried, and applying the provisions of the Sea Customs Act, 1878 (8 of 1878), and in particular section 19 thereof to such prohibitions, restrictions and regulations;

(33) controlling the possession, use or disposal of, or dealing in, coin, bullion, bank notes, currency notes, securities or foreign exchange;

(34) the control of any road or pathway, waterway, ferry or bridge, river, canal or other source of water-supply;

(35) the requisitioning and acquisition of any movable property; and the principles on which and the manner in which compensation shall be determined and given in respect of such requisitioning or acquisition;

(36) the prevention of any corrupt practice or abuse of authority or other *mala fide* action in relation to the production, storage, purchase, sale, supply or transport of goods for any purpose connected with the defence of India and civil defence, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community;

(37) the prevention of hoarding, profiteering, blackmarketing, or adulteration of, or any other unfair practices in relation to, any goods procured by or supplied to the Government or notified by or under the rules as essential to the life of the community;

(38) prohibiting or regulating the possession, use or disposal of—

(a) explosives, inflammable substances, corrosive and other dangerous substances or articles, arms and ammunitions of war;

(b) vessels;

(c) wireless telegraphic apparatus;

(d) aircraft; and

(e) photographic and signalling apparatus and any means of recording information;

(39) prohibiting or regulating the bringing into, or taking out of, India and the possession, use or transmission of ciphers and other secret means of communicating information;

(40) prohibiting or regulating the publication of inventions and designs;

(41) prohibiting or regulating the publication of results of research work having a bearing on efforts relating to defence of India or military operations;

(42) preventing the disclosure of official secrets;

(43) prohibiting or regulating meetings, assemblies, fairs and processions;

(44) preventing or controlling any use of uniforms, whether official or otherwise, flags, official decorations like medals, badges and other insignia and anything similar thereto, where such use is calculated to deceive or to prejudice the public safety, the maintenance of public order, the defence of India and civil defence;

(45) ensuring the accuracy of any report or declaration legally required of any person;

(46) preventing the unauthorized change of names;

(47) preventing anything likely to cause misapprehension in respect of the identity of any official person, official document or official property or in respect of the identity of any person, document or property purporting to be, or resembling, an official person, official document or official property;

(48) the precautionary measures which the Government or any department thereof or any local authority, members of police forces and fire brigades and members of any other service or authority employed primarily for purposes other than civil defence purposes should be required to take within their respective jurisdictions or with respect to any personnel employed by them;

(49) the seizure and custody or destruction of injured, unclaimed or dangerous animals;

(50) the salvage of damaged buildings and property and disposal of the dead;

(51) the evacuation of areas and the removal of property or animals therefrom;

(52) the accommodation in any area of persons evacuated from another area and the regulation of the conduct of evacuated persons accommodated in such area;

(53) the billeting of evacuated persons or persons authorised to exercise functions under this Act;

(54) the instruction of members of the public in civil defence and their equipment for purposes of civil defence;

(55) the entry into, and search of, any place reasonably suspected of being used for any purpose prejudicial to the public safety or interest, to the defence of India and civil defence or to the efficient conduct of military operations, and for the seizure and disposal of anything found there and reasonably suspected of being used for such purpose;

(56) the preparation of any scheme of defence service or any other service connected with the defence of India and requiring any person or class of persons to comply with such scheme;

(57) the eviction of unauthorised occupants from such public premises [as defined in the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958) as are, in the opinion of the Central Government, required for the purposes connected with the defence of India and civil defence, the public safety or interest, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community.

(3) The rules made under sub-section (1) may further—

(i) provide for the arrest and trial of persons contravening any of the rules or any order issued thereunder;

(ii) provide that any contravention of, or any attempt to contravene, or any abetment of, or any attempt to abet, the contravention of any of the provisions of the rules or any order issued under any such provision, shall be punishable with imprisonment for a term which may extent to seven years, or with fine, or with both;

(iii) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in cause (ii) has been committed and for the adjudication of such forfeiture whether by a court or by any other authority;

(iv) confer powers and impose duties—

(a) upon the Central Government or officers and authorities of the Central Government as respects any matter, notwithstanding that the matter is one in respect of which the State Legislature has power to make laws; and

(b) upon any State Government or officers and authorities of any State Government as respects any matter, notwithstanding that the matter is one in respect of which the State Legislature has no power to make laws;

(v) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of, the rules or any order made thereunder;

(vi) provide for preventing obstruction and deception of, and disobedience to, any person acting, and interference with any notice issued, in pursuance of the rules or any order made thereunder;

(vii) prohibit attempts by any person to screen from punishment any one, other than the husband or wife of such person, contravening any of the rules or any order made thereunder;

(viii) empower or direct any authority to take such action as may be specified in the rules or as may seem necessary to such authority for the purpose of ensuring the public safety or interest or the defence of India and civil defence;

(ix) provide for charging fees in respect of the grant or issue of a licence, permit, certificate or other document for the purposes of the rules.

4. *Special powers to control civilian personnel employed in connection with the Armed Forces of the Union.*—The Central Government may, by notification in the Official Gazette, direct by general or special order that any persons who not being members of the Armed Forces of the Union are attached to, or employed with, or following those Forces, shall be subject to naval, military or air force law, and thereupon such persons shall be subject to discipline and liable to punishment for offences under the Navy Act, 1957 (62 of 1957), the Army Act, 1950 (46 of 1950), and the Air Force Act, 1950 (45 of 1950), as the case may be, as if they were included in such class of persons subject to any of those Acts as may be specified in the notification or in the absence thereof, by an officer empowered by the Central Government in this behalf.

5. *Enhanced penalties.*—(1) If any person contravenes, with intent to wage war against India or to assist any country committing external aggression against India, any provision of the rules made under section 3 or any order issued under any such rule, he shall be punishable with death or imprisonment for life, or imprisonment for a term which may extend to ten years and shall also be liable to fine.

(2) If any person,—

(a) contravenes any such provision of, or any such rule or order made under the Aircraft Act, 1934, (22 of 1934) as may be notified in this behalf by the Central Government, or

(b) in any area notified in this behalf by a State Government, contravenes any such provision of, or any such rule made under, the Arms Act, 1959 (54 of 1959), the Indian Explosives Act, 1884 (4 of 1884), the Explosive Substances Act, 1908 (6 of 1908), or the Inflammable Substances Act, 1952 (20 of 1952) as may be notified in this behalf by the State Government,

he shall, notwithstanding anything contained in any of the aforesaid Acts or rules made thereunder, be punishable with imprisonment for a term which may extend to five years, or, if his intention is to assist any country committing external aggression against India, or, to wage war against India, with death, imprisonment for life or imprisonment for a term which may extend to ten years and shall in either case also be liable to fine.

(3) For the purposes of this section, any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention of any provision of any law, rule or order shall be deemed to have contravened that provision.

6. *Temporary amendments to Acts.*—During the continuance in force of this Act,—

(1) the Indian Official Secrets Act, 1923 (19 of 1923), shall have effect as if—

(a) in sub-section (1) of section 5 thereof, after the words "in his possession or control", the words "any information likely to assist the enemy as defined in the Defence of India Act, 1962, or" had been inserted; and after the words "in such a place," the words "or which relates to or is used in, a protected area as defined in the rules made under the Defence of India Act, 1962, or relates to anything in such area," had been inserted;

(b) for sub-section (4) of section 5 thereof, the following sub-section had been substituted, namely:—

"(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to five years, or if such offence is committed with intent to assist any country committing external aggression against India or to wage war against India, with death or imprisonment for life or imprisonment for a term which may extend to ten years and shall in either case also be liable to fine.";

(c) after clause (a) of section 12 thereof, the following clause had been inserted, namely:—

"(aa) an offence under section 5 shall be a cognizable and non-bailable offence;";

(2) the Aircraft Act, 1934 (22 of 1934), shall have effect as if—

(a) at the end of clause (r) of sub-section (2) of section 5, the following words had been inserted, namely:—

"including the taking of steps necessary to secure complaince with, or to prevent contravention of, the rules regulating such matters, or, where any such rule has been contravened, to rectify, or to enable proceedings to be taken in respect of, such contravention.";

(b) in clause (b) of sub-section (1) of section 8, for the words, brackets, letters and figures "clause (h) or clause (i) of sub-section (2) of section 5", the words, brackets, letters and figures "clause (d), (e), (h), (i), (k) or (l) of sub-section (2) of section 5, or the commission of an offence punishable under section 11," had been substituted;

(c) in section 11, after the words "in the air", the words "or in such a manner as to interfere with any of the Armed Forces of the Union or any ships or aircraft" had been inserted;

(d) in section 13, for the words, brackets, letters and figures "clause (i) of sub-section (2) of section 5" the words, brackets, letters and figures "clause (c), (d), (e), (h), (i), (j), or (k) of sub-section (2) of section 5 or punishable under section 11" had been substituted; and

(e) section 14 had been omitted;

(3) the Payment of Wages Act, 1936 (4 of 1936), shall have effect as if after clause (i) of sub-section (2) of section 7 thereof, the following clause had been inserted, namely:—

"(ii) deductions made with the written authorisation of—

(i) the employed person; or

(ii) the president or secretary of the registered trade union of which the employed person is a member on such conditions as may be prescribed,

for contribution to the National Defence Fund or to any Defence Savings Scheme approved by the State Government;";

(4) the Motor Vehicles Act, 1939 (4 of 1939), (in this clause referred to as the "said Act") shall have effect subject to the following provisions, namely:—

(a) the State Government may, by notification in the Official Gazette, authorise, subject to such conditions, if any, as it may think fit to impose, any person—

(i) also to perform such functions of the State Government under Chapter IV (in this clause referred to as the "said Chapter") of the said Act, other than the making of rules as may be specified in the notification; and

(ii) to perform to the exclusion of the State Transport Authority or Regional Transport Authority, as the case may be, such functions of the State Transport Authority or any Regional Transport Authority under the said Chapter as may be specified in the notification;

and the expression "proper authority" in this clause shall, in relation to the performance of any such function as aforesaid, be construed in accordance with the provisions of such notification, if any, relating to that function;

(b) notwithstanding anything to the contrary in section 58 or section 62 of the said Act, the proper authority may grant a permit or a temporary permit under the said Chapter to be effective for any specified period or for the period of operation of this Act, whichever is less;

(c) the State Government may, by general or special order, in writing, provide that the proper authority,—

(i) in deciding to grant or refuse to grant a permit under the said Chapter, shall not be bound to take into consideration representations made by any persons other than the applicant for the permit or to follow the procedure laid down in section 57 of the said Act, and may take into consideration an application for a stage carriage permit or a public carrier's permit which has not complied with the provisions of sub-section (2) of that section;

(ii) in fixing the maximum and minimum fares or freights for stage carriages and public carriers, shall not be bound to give the representatives of the interests affected an opportunity of being heard or to follow the procedure laid down in section 43 of the said Act, or where such action is taken for the purpose of preventing the charge of excess fares or freights, to have regard to any of the considerations set forth in clauses (a) to (d) of sub-section (1) of that section;

(d) without prejudice to the provisions of section 60 of the said Act, the proper authority may, if in its opinion the public interest so requires, cancel, or modify the conditions of, or suspend for such period as it thinks fit, any permit or counter-signature under the said Chapter which is valid in its jurisdiction;

(e) the Central Government or the State Government may, by general or special order in writing, exempt from all or any of the provisions of the said Chapter any transport vehicle used or required for use in connection with any work or purpose declared by the Central Government or, as the case may be, the State Government in the order to be a work or purpose connected with the defence of India, the conduct of military operations or civil defence;

(f) if the State Government by general or special order in writing so directs, the provisions of sub-section (2) of

section 38 of the said Act shall have effect in relation to any controlled motor vehicles specified in the order as if the words "not being in any case more than two years or less than six months" had been omitted.

Explanation—In this clause "controlled motor vehicle" means any motor vehicle declared by the Government to be a controlled motor vehicle by order made in this behalf.

CHAPTER III

CIVIL DEFENCE SERVICES

7. *Constitution of Civil Defence Service.*—(1) The State Government may constitute for any area within the State a body of persons to be called the Civil Defence Service and may appoint a person (hereinafter called the Director) to command such body.

(2) Subject to any orders which the Central Government may make in this behalf, any member of a Civil Defence Service of any State may at any time be required to discharge functions in relation to civil defence in any other State and shall while so discharging such functions be deemed to be a member of Civil Defence Service of that other State and be vested with the powers, functions and privileges and be subject to the liabilities of a member of a Civil Defence Service of that other State.

8. *Appointment of members and officers.*—(1) Any authority authorised in this behalf by the State Government may appoint as members of a Civil Defence Service so many persons who are fit and willing to serve as such as it is authorised by the State Government to appoint, and the Director may appoint any such member to any office or command in the Service.

(2) Every person so appointed to be a member of a Civil Defence Service shall be given a certificate of membership in such form as may be prescribed.

9. *Dismissal of members of Civil Defence Service.*—The Director or any other authority authorised in this behalf by the State Government may, by order in writing, dismiss summarily from a Civil Defence Service any member thereof if, in the opinion of the Director or such other authority, he fails to discharge satisfactorily, or is guilty of misconduct in the discharge of, his duties as such member, or his continued presence in the Service is otherwise undesirable.

10. *Functions of members of Civil Defence Services.*—(1) The members of a Civil Defence Service shall perform such functions in relation to the carrying out of measures for civil defence as may be assigned to them by rules made under this Act or by any other law for the time being in force.

(2) The Director or any person authorised in this behalf by the Director or by the State Government may by order at any time call out a member of a Civil Defence Service for training or to discharge any such functions as aforesaid.

11. *Penalty.*—If any member of a Civil Defence Service on being called out by an order under sub-section (2) of section 10 neglects or refuses without sufficient excuse to obey such order or to discharge his functions as a member of the Civil Defence Service or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction by a competent court, be punishable with fine which may extend to five hundred rupees.

12. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may—

(a) prescribe the duties of members of Civil Defence Services and regulate the manner in which they may be called out for service;

(b) regulate the organisation, appointment, conditions of service, discipline, accoutrement, and clothing of members of any or all of the Civil Defence Services;

(c) prescribe the form of certificates of membership of any or all of the Civil Defence Services;

(d) provide that a contravention of, or an attempt to contravene, and any abetment of or attempt to abet the contravention of, any of the provisions of the rules or of any order issued under any such provision shall be punisable with imprisonment for a term which may extend to seven years, or with fine, or with both;

(e) provide for the arrest and trial of persons contravening, or reasonably suspected of contravening, any of the provisions of the rules or of any order issued under any such provision;

(f) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in clause (d) has been committed;

(g) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of, the rules or of any order issued thereunder;

(h) provided for preventing the obstruction and deception of, and disobedience to, any person acting, and interference with any notice issued, in pursuance of the rules or of any order issued thereunder;

(i) prohibit attempts to screen from punishment any person contravening any of the rules.

CHAPTER IV

Special Tribunals

13. *Constitution of Special Tribunals.*—(1) The State Government may, for the whole or any part of the State, constitute one or more Special Tribunals which or each of which shall consist of three members appointed by that Government.

(2) No person shall be appointed as a member of a Special Tribunal unless he—

(a) is qualified under clause (2) of article 217 of the Constitution for appointment as a Judge of a High Court; or

(b) has for a total period of not less than three years exercised, whether continuously or not, the powers under the Code of Criminal Procedure, 1898 (5 of 1898) (hereafter in this Chapter referred to as the Code) of any one or more of the following namely:—

(i) Sessions Judge, Additional Sessions Judge, Chief Presidency Magistrate, Additional Chief Presidency Magistrate,

(ii) District Magistrate, Additional District Magistrate.

(3) At least one member of a Special Tribunal shall be qualified for appointment thereto under clause (a) of sub-section (2), and where only one member is so qualified under that clause, at least one other member shall be qualified for appointment under clause (b) of that sub-section by virtue of having exercised powers exclusive of those specified in sub-clause (ii) of the said clause (b).

14. *Jurisdiction of Special Tribunals.*—During the period during which the Proclamation of Emergency is in operation, the State Government may, by general or special order, direct that a Special Tribunal shall try any offence—

(a) under any rule made under section 3, or

(b) punishable with death, imprisonment for life or imprisonment for a term which may extend to ten years under section 5 of this Act or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923 (19 of 1923), as amended by section 6 of this Act,

triable by any court having jurisdiction within the local limits of the jurisdicton of the Special Tribunal and may in any such order direct the transfer to the Special Tribunal of any particular case from any other Special Tribunal or any other criminal court not being a High Court.

15. *Procedure of Special Tribunals.*—(1) A Special Tribunal may take cognizance of offences without the accused being committed to it for trial,

(2) Save in cases of trials of offences punishable with death or imprisonment for life or imprisonment for a term which may extend to five years or more, it shall not be necessary in any trial for a Special Tribunal to take down the evidence at length in writing, but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes, to be taken down, and such memorandum shall be signed by a member of the Special Tribunal and shall form part of the record.

(3) A Special Tribunal shall not be bound to adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interests of justice.

(4) A Special Tribunal shall not, merely by reason of a change in its members, be bound to recall and to re-hear any witness who has given evidence, and it may act on the evidence already recorded by or produced before it.

(5) After an accused person has once appeared before it, a Special Tribunal may try him in his absence if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, or if the behaviour of the accused in court has been such as, in the opinion of the Special Tribunal, to impede the course of justice.

(6) In the event of any difference of opinion among the members of a Special Tribunal, the opinion of the majority shall prevail.

(7) The State Government may, by notification in the Official Gazette, make rules providing for—

(i) the times and places at which special Tribunals may sit; and

(ii) the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person.

(8) A Special Tribunal shall, in all matters in respect to which no procedure has been prescribed by this Act or by rules made thereunder, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

16. *Exclusion of public from proceedings of Special Tribunals.*—In addition and without prejudice, to any powers which a Special Tribunal may possess by virtue of any law for the time being in force to order the exclusion of the public from any proceedings, if at any stage in the course of a trial of any person before a Special Tribunal, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the trial would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Special Tribunal may make an order to that effect, but the passing of the sentence shall in any case take place in public.

17. *Power of special Tribunals.*—A Special Tribunal shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction.

18. *Sentences of Special Tribunals*—(1) A Special Tribunal may pass any sentence authorised by law.

(2) A person sentenced by a Special Tribunal—

(a) to death or imprisonment for life, or

(b) to imprisonment for a term of five years or more, under this Act or the rules made thereunder or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923 (10 of 1923), as amended by section 6 of this Act,

shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed, but save as aforesaid and notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of a Special Tribunal, and no court shall have authority to revise such order or sentence, or to transfer any case from a Special Tribunal, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal.

(3) The powers conferred upon the appropriate Government by Chapter XXIX of the Code shall apply in respect of a person sentenced by a Special Tribunal.

CHAPTER V

EMPLOYMENT OF TECHNICAL PERSONNEL IN THE NATIONAL SERVICE

19. *Definitions*—In this Chapter, unless the context otherwise requires,—

(a) "employment in the national service" means employment in a notified establishment in pursuance of an order passed under section 23;

(b) "employer" means any person who employs technical personnel to do any work in an establishment and includes any person entrusted with the supervision and control of technical personnel in such an establishment;

(c) "establishment" means—

(i) any office, or

(ii) any place where any industry, trade, business or occupation is carried on; and includes any technical institution or training centre established, selected or approved by the Central Government;

(d) "National Service Tribunal" means a Tribunal constituted under section 21;

(e) "notified establishment" means any Government establishment and any establishment declared by notification under sub-section (1) of section 22 to be engaged in work of national importance;

(f) "notified occupation" means any occupation which the Central Government may, by rules made under this Chapter, specify as a notified occupation for the purposes of this Chapter;

(g) "technical personnel" means all persons who possess knowledge of or skill in one or more of the notified occupations, whether or not they are employed in any establishment, and includes such persons or class of persons undergoing training in any of those occupations in any establishment as may be declarded by the Central Government by notification in the Official Gazette to be technical personnel for the purposes of this Chapter.

20. *Liability for employment in national service.*—All technical personnel, being citizens of India and not being members of the Armed Forces of the Union or members of any Reserve of any such Force who are liable, under the terms of their service in such Reserve, to be called up for service at any time and not only on partial or general mobilisation, shall be liable under this Chapter to undertake employment in the national service.

21. *National Service Tribunals.*—(1) The Central Government shall constitute, for such areas and in such places as it thinks fit, National Service Tribunals to exercise the functions assigned to such tribunals by or under this Chapter.

(2) The composition, powers and procedure of National Service Tribunals shall be such as may be prescribed.

22. *Notified establishments.*—(1) The Central Government may, by notification in the Official Gazette, declare any establishment, which is engaged in work which, in the opinion of the Central Government, is likely to assist the defence of India and civil defence, the efficient conduct of military operations, or the maintenance or increase of supplies and services essential to the life of the community, to be an establishment engaged in work of national importance and thereupon such establishment shall be a notified establishment and while making such declaration, the Central Government may require that establishment to make such provisions as may be specified in the notification in regard to the terms of service and conditions of work of its employees.

(2) Every notified establishment shall be eligible to apply to a National Service Tribunal or to the Central Government for technical personnel and having so applied, shall take into its employment such technical personnel within such period and on such terms and conditions as may be prescribed.

23. *Employment of technical personnel in the national service.*—(1) Subject to any rules made in this behalf under this Chapter, the Central Government may require a National Service Tribunal to report what technical personnel, whether employed in an establishment or not, is available within its jurisdiction for employment in the national service and may by order in writing,—

(a) require the employer in any establishment by which such technical personnel is employed to release such personnel as may be specified in the order, for employment in the national service;

(b) direct any technical personnel to undertake such employment in the national service as may be specified in the order;

(c) direct that any technical personnel engaged in any establishment under conditions not amounting to employment in the national service shall, for the purposes of sub-section (8), be deemed to have been taken into employment in the national service; and

(d) require any notified establishment, notwithstanding that it has not made any application under section 22, to take into its employment such technical personnel within such period as may be specified in the order.

(2) Notwithstanding anything in sub-section (1), a National Service Tribunal may—

(a) exercise the powers conferred on the Central Government by clauses (a) and (b) of sub-section (1);

(b) require by order any employer to give training in his establishment to persons for qualifying them as technical personnel;

(c) direct by order technical personnel to present themselves at such place and time as may be specified in the order for interview or inquiry, and if so required, for submission to a test of their technical skill.

(3) Any order made by the Central Government under sub-section (1) and by a National Service Tribunal under sub-section (2) shall be complied with within such period or on such date as may be specified in this behalf in the order.

(4) The Central Government or, as the case may be, a National Service Tribunal, may, by order in writing, transfer technical personnel from one form or place of employment in the national service to another; and the employer and the personnel concerned shall comply with such order.

(5) No person included in the definition of technical personnel, who has been directed to undertake employment in the national service or transferred from one form or place of employment to another under the foregoing provisions, shall be discharged from or leave his employment in such service

unless the employer or person concerned has previously obtained the permission of the Central Government or, as the case may be, of the National Service Tribunal.

(6) Any person included in the definition of technical personnel who is required to undertake employment in the national service or transferred from one form or place of employment to another under the foregoing provisions of this section, may be required by the Central Government, or, as the case may be, the National Service Tribunal concerned, to submit himself to be examined by such medical authority as may be prescribed.

(7) An appeal shall lie to the Central Government against any order passed by a National Service Tribunal under this section and the decision of the Central Government shall be final.

(8) The terms of service of technical personnel taken into employment in the national service shall be such as may be prescribed:

Provided that any rights which such technical personnel may have under the provident or superannuation fund or other scheme relating to gratuity, bonus or other benefit for the advantage of employees maintained by the establishment from which they are released shall be preserved.

24. *Reinstatement.*—(1) Every person who was employed in an establishment immediately before his employment in the national service and whose employment in the national service has not been terminated by dismissal for serious misconduct shall, on his release from such employment in the national service, be entitled to be reinstated in his former employment, in accordance with such conditions as may be prescribed:

Provided that in determining such conditions regard shall be had to the additional skill and experience acquired by him in the course of his employment in the national service.

(2) The Central Government may by rules made in this behalf provide for the appointment of Technical Personnel (Reinstatement) Tribunals to deal with such matters in relation to reinstatement of persons released from employment in the national service as may be prescribed.

25. *Relinquishment of employment by, dismissal of, and engagement by establishment of, technical personnel.*—(1) Subject to any rules made in this behalf, a National Service Tribunal may require any establishment (including a notified establishment) to post before a specified date and to keep posted, on its premises notices intimating that—

(a) no person included within the definition of technical personnel who is employed in the establishment shall at any time after the posting of the notice, leave his employment without the previous permission in writing of the National Service Tribunal;

23. *Employment of technical personnel in the national service.*—(1) Subject to any rules made in this behalf under this Chapter, the Central Government may require a National Service Tribunal to report what technical personnel, whether employed in an establishment or not, is available within its jurisdiction for employment in the national service and may by order in writing,—

(a) require the employer in any establishment by which such technical personnel is employed to release such personnel as may be specified in the order, for employment in the national service;

(b) direct any technical personnel to undertake such employment in the national service as may be specified in the order;

(c) direct that any technical personnel engaged in any establishment under conditions not amounting to employment in the national service shall, for the purposes of sub-section (8), be deemed to have been taken into employment in the national service; and

(d) require any notified establishment, notwithstanding that it has not made any application under section 22, to take into its employment such technical personnel within such period as may be specified in the order.

(2) Notwithstanding anything in sub-section (1), a National Service Tribunal may—

(a) exercise the powers conferred on the Central Government by clauses (a) and (b) of sub-section (1);

(b) require by order any employer to give training in his establishment to persons for qualifying them as technical personnel;

(c) direct by order technical personnel to present themselves at such place and time as may be specified in the order for interview or inquiry, and if so required, for submission to a test of their technical skill.

(3) Any order made by the Central Government under sub-section (1) and by a National Service Tribunal under sub-section (2) shall be complied with within such period or on such date as may be specified in this behalf in the order.

(4) The Central Government or, as the case may be, a National Service Tribunal, may, by order in writing, transfer technical personnel from one form or place of employment in the national service to another; and the employer and the personnel concerned shall comply with such order.

(5) No person included in the definition of technical personnel, who has been directed to undertake employment in the national service or transferred from one form or place of employment to another under the foregoing provisions, shall be discharged from or leave his employment in such service

unless the employer or person concerned has previously obtained the permission of the Central Government or, as the case may be, of the National Service Tribunal.

(6) Any person included in the definition of technical personnel who is required to undertake employment in the national service or transferred from one form or place of employment to another under the foregoing provisions of this section, may be required by the Central Government, or, as the case may be, the National Service Tribunal concerned, to submit himself to be examined by such medical authority as may be prescribed.

(7) An appeal shall lie to the Central Government against any order passed by a National Service Tribunal under this section and the decision of the Central Government shall be final.

(8) The terms of service of technical personnel taken into employment in the national service shall be such as may be prescribed:

Provided that any rights which such technical personnel may have under the provident or superannuation fund or other scheme relating to gratuity, bonus or other benefit for the advantage of employees maintained by the establishment from which they are released shall be preserved.

24. *Reinstatement.*—(1) Every person who was employed in an establishment immediately before his employment in the national service and whose employment in the national service has not been terminated by dismissal for serious misconduct shall, on his release from such employment in the national service, be entitled to be reinstated in his former employment, in accordance with such conditions as may be prescribed:

Provided that in determining such conditions regard shall be had to the additional skill and experience acquired by him in the course of his employment in the national service.

(2) The Central Government may by rules made in this behalf provide for the appointment of Technical Personnel (Reinstatement) Tribunals to deal with such matters in relation to reinstatement of persons released from employment in the national service as may be prescribed.

25. *Relinquishment of employment by, dismissal of, and engagement by establishment of, technical personnel.*—(1) Subject to any rules made in this behalf, a National Service Tribunal may require any establishment (including a notified establishment) to post before a specified date and to keep posted, on its premises notices intimating that—

(a) no person included within the definition of technical personnel who is employed in the establishment shall at any time after the posting of the notice, leave his employment without the previous permission in writing of the National Service Tribunal;

(b) if the National Service Tribunal refuses such permission, that tribunal may lay down, subject to the prescribed conditions, the terms of service on which the employer shall continue to retain him in employment;

(c) if any such person leaves his employment without the previous permission in writing of the Tribunal as aforesaid he may be directed by the Tribunal to return to his employment.

(2) After notice referred to in sub-section (1) have been posted on the premises of any establishment (including a notified establishment), no employer in the establishment shall engage, discharge or dismiss any person included in the definition of technical personnel except in accordance with rules made in this behalf.

26. *Penalties and procedure.*—(1) Whoever contravenes any order of the Central Government or of a National Service Tribunal made under section 23 or wilfully fails to comply with any summons, requirement, direction or order issued or made by the Central Government or by a National Service Tribunal under any other provision of this Chapter shall be punishable with imprisonment for a term not exceeding six months, or with fine not exceeding one thousand rupees, or with both.

(2) No court shall take cognizance of any offence punishable under sub-section (1) except with the previous sanction in writing,—

(a) in the case of contravention of any order or any wilful failure to comply with any summons, requirement or direction of the Central Government, of the Central Government;

(b) in the case of contravention of any order or any wilful failure to comply with any summons, requirement or direction of a National Service Tribunal, of the National Service Tribunal.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, (5 of 1898) an offence punishable under sub-section (1) shall be cognizable.

(4) No court inferior to a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under sub-section (1).

27. *Service of summons, notices, orders etc.*—Any summons, notice, requirement, direction or order issued, made or given to any person under this Chapter may be served by being sent by registered post addressed to that person at his last known residence.

28. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the occupations which shall be notified occupations for the purposes of this Chapter;

(b) the composition, powers and procedure of National Service Tribunals;

(c) the technical personnel, which may be taken into the employment of any notified establishment under sub-section (2) of section 22 and the period within which and the terms and conditions on which such personnel shall be so taken;

(d) the medical authority before whom any person may be required to submit himself for examination under sub-section (6) of section 23;

(e) the terms of service of technical personnel taken into employment in the national service;

(f) the conditions in accordance with which persons released from employment in the national service may be reinstated in their former employment;

(g) the appointment of Technical Personnel (Reinstatement) Tribunals and the matters in relation to reinstatement which such Tribunals may be required to deal with;

(h) the provisions relating to engagement, discharge or dismissal of persons by any employer in any establishment on the premises of which notices have been posted under sub-section (1) of section 25;

(i) any other matter which may be prescribed or which is to be provided for by rules.

(3) Any rule made under this Chapter may provide that a contraveution of the rule shall be punishable with imprisonment for a term not exceeding six months, or with fine not exceeding one thousand rupees, or with both.

CHAPTER VI

Requisitioning and acquisition of immovable property

29. *Requisitioning of immovable property.*—(1) Notwithstanding anything contained in any other law for the time being in force, if in the opinion of the Central Government or the State Government it is necessary or expedient so to do for securing the defence of India, civil defence, public safety, maintenance of public order or efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community, that Government may by order

in writing requisition any immovable property and may make such further orders as appear to that Government to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof which is exclusively used by the public for religious worship shall be requisitioned.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the Central Government or the State Government, as the case may be, to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

30. *Payment of compensation.*—Whenever in pursuance of section 29 the Central Government or the State Government, as the case may be, requisitions any immovable property, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(i) the rent payable in respect of the property or if no rent is payable, the rent payable in respect of similar property in the locality;

(ii) if in consequence of the requisition of the property the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

(iii) such sum or sums, if any, as may be found necessary to compensate the person interested for damage caused to the property on entry after requisition or during the period of requisition, other than normal wear and tear:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred to an arbitrator appointed in this behalf by the

Central Government or the State Government, as the case may be, for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this section and in section 37, the expression "person interested" in relation to any property includes all persons claiming or entitled to claim an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act.

31. *Power to obtain information and give direction.*—The Central Government or the State Government, as the case may be, may, with a view to requisitioning any property under section 29 or determining the compensation payable under section 30, by order—

(a) require any person to furnish to the authority mentioned therein such information in his possession relating to any property as may be specified;

(b) direct that the owner, occupier or the person in possession of the property shall not, without the permission of Government, dispose of it or where it is a building, structurally alter it till the expiry of such period as may be specified in the order.

32. *Power of entry into, and inspection of, property, etc.*—Any person authorised in this behalf by the Central Government or the State Government, as the case may be, may enter into any immovable property and inspect such property for the purpose of determining whether, and if so in what manner, an order under section 29 should be made in relation to such property or with a view to securing compliance with any order made under that section.

33. *Eviction from requisitioned property.*—(1) Any person remaining in possession of any requisitioned property in contravention of any order made under section 29 may be summarily evicted from the property by any officer empowered in this behalf by the Central Government or the State Government, as the case may be.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

34. *Penalty for contravention of any order regarding requisitioning.*—If any person contravenes any order made under section 29 or section 31, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

35. *Release from requisition.*—(1) Where any property requisitioned under section 29 is to be released from such requisition, the Government by which or under whose authority

the property was requisitioned or any person generally or specially authorised by it in this behalf may, after such inquiry, if any, as it or he may in any case, consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person who appears to the Government or, as the case may be, the person authorised as aforesaid, to be entitled to the possession of the property at the time such order is made.

(2) The delivery of possession of the property to the person specified in the order under sub-section (1) shall be a full discharge of the Government from all liabilities in respect of the property, but shall not prejudice by any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is delivered.

36. *Acquisition of requisitioned property.*—(1) Any immovable property which has been requisitioned under section 29 may, in the manner hereinafter provided, be acquired in the circumstances and by the Government specified below, namely:—

(a) where any works have, during the period of requisition been constructed on, in or over the property wholly or partly at the expense of any Government, the property may be acquired by that Government if it decides that the value of or the right to use, such works shall, by means of the acquisition of the property, be preserved or secured for the purposes of any Government, or

(b) where the cost to any Government of restoring the property to its condition at the time of its requisition as aforesaid would, in the determination of that Government, be excessive having regard to the value of the property at that time, the property may be acquired by that Government.

(2) When any Government as aforesaid decides to acquire any immovable property, it shall serve on the owner thereof or where the owner is not readily traceable or the ownership is in dispute, by publishing in the Official Gazette, a notice stating that the Government has decided to acquire it in pursuance of this section.

(3) Where a notice of acquisition is served on the owner of the property or is published in the Official Gazette under sub-section (2), then, at the beginning of the day on which the notice is so served or published, the property shall vest in the Government free from any mortgage, pledge, lien or other similar encumbrances and the period of requisition thereof shall come to an end.

(4) Any decision or determination of a Government under sub-section (1) shall be final, and shall not be called in question in any court.

(5) For the purposes of this section, "works" includes every description of buildings, structures and improvements of the property.

37. *Compensation for acquisition of requisitioned property.*—(1) The compensation payable for the acquisition of any property under section 36 shall be—

(a) the price which the requisitioned property would have fetched in the open market if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or

(b) twice the price which the requisitioned property would have fetched in the open market if it had been sold on the date of the requisition,

whichever is less.

(2) Where any person interested is aggrieved by the amount of compensation determined in accordance with sub-section (1), he may make an application within the prescribed time to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator appointed in this behalf by the Central Government or the State Government, and the amount of compensation to be paid shall be such as may be determined by the arbitrator in accordance with sub-section (1).

(3) The provisions of section 31 and section 32 shall apply in relation to the acquisition of any property or the determination of compensation for such acquisition as they apply in relation to the requisitioning of any property or the determination of compensation for such requisitioning.

(4) Where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred to an arbitrator appointed in this behalf by the Central Government or the State Government as the case may be, for determination, and his decision thereon shall be final.

38. *Power to make rules.*—(1) The Central Government or the State Government, as the case may be, may by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may prescribe—

(a) the procedure to be followed in arbitration proceedings under this Chapter;

(b) the period within which the owner of any property or any other person interested in the amount of compensation may apply to the Government concerned for referring the matter to an arbitrator;

(c) the principles to be followed in apportioning the costs of proceedings before the arbitrator;

(d) the method of payment of compensation;

(e) the manner of service of notices and orders;

(f) any other matter which has to be, or may be, prescribed.

39. *Certain properties requisitioned under previous law to be deemed to be requisitioned under this Chapter.*—Any property referred to in sub-section (2) of section 24 of the Requisitioning and Acquisition of Immovable Property Act, 1952, (30 of 1952) which continued, immediately before the commencement of that Act, to be subject to requisition under the Requisitioned Land (Continuance of Powers) Act, 1947, (17 of 1947) and has not, immediately before the commencement of this Act, been released from requisitioning shall, notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court, be deemed to be the property requisitioned under sub-section (1) of section 29 if such property is, in the opinion of the Central Government, now required for any of the purposes specified in that sub-section:

Provided that—

(a) all agreements or awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period after such commencement;

(b) anything done or any action taken (including any orders, notifications or rules made or issued) under the Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952) or under the Requisitioned Land (Continuance of Powers) Act, 1947, (17 of 1947) and continued under the first-mentioned Act, shall, in so far as it is not inconsistent with the provisions of this Chapter or any rules or orders made thereunder, be deemed to have been done or taken under this Chapter.

CHAPTER VII

SUPPLEMENTAL

40. *Power to delegate.*—(1) The Central Government may, by order, direct that any power or duty which by this Act or by any rule made under this Act is conferred or imposed upon

the Central Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged also—

(a) by any officer or authority subordinate to the Central Government, or

(b) whether or not the power or duty relates to a matter with respect to which a State Legislature has power to make laws, by any State Government or by any officer or authority subordinate to such Government, or

(c) by any other authority.

(2) The State Government may, by order, direct that any power or duty which by this Act or by any rule made under this Act is conferred or imposed on the State Government or which, being by this Act or any such rule conferred or imposed on the Central Government, has been directed under sub-section (1) to be exercised or discharged by the State Government, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority not being (except in the case of a Union territory) an officer or authority subordinate to the Central Government.

41. *Rules to be laid before Houses of Parliament.*—Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

42. *Jurisdiction of ordinary courts.*—(1) Except as may be provided in this Act or in any rule made thereunder or in any order made under any such rule by the Central Government or the State Government or by an officer not below the rank of Collector empowered under sub-section (1) or sub-section (2) of section 40 to make such order, the ordinary criminal and civil courts shall continue to exercise jurisdiction.

(2) For the removal of doubts, it is hereby declared that any provision in any such rule or order as aforesaid to the effect that the decision of any authority not being a court shall be final or conclusive shall be a sufficient excepting provision within the meaning of sub-section (1).

43. *Effect of Act and rules, etc., inconsistent with other enactments.*—The provisions of this Act or any rule made thereunder or any order made under any such rule shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

44. *Ordinary avocations of life to be interfered with as little as possible.*—Any authority or person acting in pursuance of this Act shall interfere with the ordinary advocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public safety and interest and the defence of India and civil defence.

45. *Savings as to orders.*—(1) No order made in exercise of any power conferred by or under this Act shall be called in question in any court.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a court shall, within the meaning of the Indian Evidence Act, 1872 (I of 1872), presume that such order was so made by that authority.

46. *Chapter III not to apply to measures taken for the protection of Armed Forces.*—Unless otherwise expressly provided in any rules or orders made under Chapter III, nothing contained in that Chapter or any such rules or orders shall apply to the Armed Forces of the Union or to any measures taken by any of the authorities in control of the Armed Forces for the purpose of securing the defence or safety of such forces or for the protection of any naval, military or air force installations or stores.

47. *Protection of action taken under the Act.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder or any orders issued under any such rule.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rule made thereunder or any order issued under any such rule.

48. *Repeal and saving.*—(1) The Defence of India Ordinance, 1962 (4 of 1962), and the Defence of India (Amendment) Ordinance, 1962 (6 of 1962), are hereby repealed.

(2) Notwithstanding such repeal, any rule made, anything done or any action taken under the Defence of India Ordinance, 1962 (4 of 1962), as amended by the Defence of India (Amendment) Ordinance, 1962 (6 of 1962), shall be deemed to have been made, done or taken under this Act as if this Act had commenced on the 26th October, 1962.

49. *Validation of certain requisitions.*—All property, immovable or movable, purporting to have been requisitioned under the Defence of India Ordinance, 1962 (4 of 1962), on or after the 26th October, 1962 and before the coming into force of the relevant provisions of that Ordinance or the Defence of India Rules, 1962 made thereunder, shall be deemed to have been validily requisitioned, as if that Ordinance and those rules had been in force on and from the 26th October, 1962 and accordingly, the provisions of this Act and those rules shall apply to and in relation to such requisition.